

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STAR REEFERS POOL, INC. and STAR REEFERS SHIOPWNING, INC.

Plaintiffs,

V.

DUNLAP TOWING COMPANY, *in personam*, and M/V MIKE O'LEARY, *in rem*.

Defendants.

IN ADMIRALTY

NO.

COMPLAINT

Plaintiffs STAR REEFERS POOL, INC. and STAR REEFERS SHIOPWNING, INC., as
and for their Complaint against the defendants Dunlap Towing Company, *in personam*, and the
M/V MIKE O'LEARY, *in rem*, allege and aver as follows:

1. This is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure, and is within the jurisdiction of this Court pursuant to the general maritime law, 28 U.S.C. § 1333 and diversity jurisdiction under 28 U.S.C. § 1332.

1 2. Plaintiff Star Reefers Shipowning, Inc. is a corporation organized and existing
2 under the laws of the Cayman Islands and is the owner of the M/V DUNEDIN STAR.

3 3. Plaintiff Star Reefers Pool, Inc. is a corporation organized and existing under the
4 laws of a foreign country and is a charterer of the M/V DUNEDIN STAR.

5 4. At all times relevant hereto, the M/V DUNEDIN STAR was a cargo ship with her
6 port of registry located at Hamilton, Bermuda.

7 5. Defendant Dunlap Towing Company (hereinafter, "Dunlap") was and is a
8 corporation organized and existing under the laws of the State of Washington with its principal
9 place of business in La Conner, Washington.

10 6. The M/V MIKE O'LEARY is a U.S. registered vessel and is owned and operated
11 by Dunlap. The tug MIKE O'LEARY is and will be within the jurisdiction of this Court during
12 the pendency of this action.

13 7. At all times relevant hereto, Dunlap held itself out to be skillful, experienced, and
14 knowledgeable in the handling and in the safe and proper navigation of this tug, particularly with
15 respect to ship undocking operations in the Port of Dutch Harbor.

16 8. On March 9, 2011, the M/V MIKE O'LEARY was hired to assist with undocking
17 the M/V DUNEDIN STAR from Terminal T-1 in Dutch Harbor, Alaska. The tug tied up to the
18 port stern quarter of the M/V DUNEDIN STAR and operated in part pursuant to orders from the
19 pilot on board the ship.

20 9. During undocking the MIKE O'LEARY collided with the port stern quarter of the
21 M/V DUNEDIN STAR.

1 10. Dunlap and the MIKE O'LEARY owed a duty to the Plaintiffs to exercise such
2 care and skill as a prudent navigator would employ for the safe and proper performance of
3 similar services under the circumstances.

4 11. Said collision occurred due to the negligence of the crew and/or unseaworthiness
5 of the M/V MIKE O'LEARY, for which Defendant Dunlap is responsible.

6 12. At all times relevant hereto, Plaintiffs and their agents, servants, and employees
7 exercised due care and regard with respect to undocking operation.

8 13. As a result of the collision, the M/V DUNEDIN STAR sustained structural
9 damage and had to be taken out of service to undergo repairs. Plaintiffs incurred money
10 damages in an amount to be proven at trial as a result of the collision.

11 WHEREFORE, Plaintiffs STAR REEFERS POOL, INC. and STAR REEFERS
12 SHIOPWNING, INC. respectfully pray that the Court enter for judgment against Defendant
13 Dunlap Towing Company, *in personam*, and the M/V MIKE O'LEARY, *in rem*, for all damages
14 they sustained as a result of the collision in an amount to be determined at trial, plus interest and
15 costs. Plaintiff further prays that process in the due form of law, according to the practice of this
16 court in admiralty and maritime claims may issue against the M/V MIKE O'LEARY, her
17 engines, tackle, equipment and furnishings, and that all persons claiming any interests therein,
18 may be required to appear and answer on oath, all and singular, matters aforesaid; and, that the
19 tug MIKE O'LEARY may be condemned and sold to satisfy the judgment of the plaintiff herein.
20 Plaintiffs also pray for such other, further and different relief as this court may deem just and
21 proper in the premises.

1 DATED this 8th day of March, 2013.

2 GASPICH LAW OFFICE PLLC

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4 s/Anthony J. Gaspich

5 Anthony J. Gaspich, WSBA No. 19300
6 Attorneys for Plaintiffs Star Reefers Pool, Inc. and
7 Star Reefers Shipowning, Inc.
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